court depends on the application of the Full Faith and Credit Act, 28 U.S.C. § 1738 (and not the ***Rooker-Feldman*** doctrine). ***Exxon Mobil***, at 1527

The ***Rooker-Feldman*** doctrine should never be confused with the concept of res judicata. It is an impossibility, after ***Exxon Mobil***, to "borrow" from preclusion law to conclude that claims and issues directed *against* an entity bind also its parties in privity as a bar to federal jurisdiction under ***Rooker-Feldman***.

Ammon v. McCloskey, 655 A.2d 549 (Pa.Super. 1995), like *ITT*, speaks only to the concept of privity for purposes of the role of collateral estoppel or issue preclusion. As the U.S. Supreme Court has made clear, preclusion has nothing to do with the use of ***Rooker-Feldman*** to bar a nonparty's access to a federal forum.

The U.S. Supreme Court has spoken on this subject. It has advised us that ***Rooker-Feldman*** does not bar individual constitutional claims raised in federal court by persons not parties to earlier state court litigation.

In *FOCUS v. Allegheny Ct. of Common Pleas*, 75 F.3d 834 (3d Cir. 1996), the Third Circuit, in conformance with Supreme Court authority on the subject, held that ***Rooker-Feldman*** was no bar to a federal forum for non-parties to a state action. The U.S. Supreme Court in ***Exxon Mobil*** re-emphasized that the doctrine has no application to a federal suit brought by a nonparty to the state suit, citing *Johnson v. De Grandy*, 512 U.S. 997 (1994). ***Exxon Mobil***, at 1523.

In light of the unanimous decision in ***Exxon Mobil***, whatever foreign jurisdictions have to say about privity in connection with res judicata must conform with Supreme Court guidance on the use of the ***Rooker-Feldman*** doctrine in regard to a nonparty's access to a federal forum.

Respondents ought to read ***Exxon Mobil*** from cover to cover when they have any doubts on this subject.

Plaintiff-Petitioners have stated that the Court of Appeals affirmed in part and vacated in part the order of the District Court. See Petition at 9 and 23. There is no debate as to the fact that the Third Circuit's decision did not address the merits of claims it held barred by the ***Rooker-Feldman*** doctrine. Part III of Respondents' Brief raises nothing new as a point of contention.

CONCLUSION

For these reasons, and those discussed more fully in the Petition, the Court should grant the Petition for Writ of Certiorari, reverse the judgment of the Third Circuit Court of Appeals, and order the Staceys' claims be reinstated.

Respectfully submitted,

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ENON VALLEY, PA 16120
TEL 724 336-5962

Date: September 23, 2005

REPLY APPENDIX

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

HELEN STACEY 2220 High St Apt 611 Cuyahoga Falls, OH 44221	:	Civil Action No. 02 1911
and	:	COMPLAINT FOR DECLARATORY
RAYMOND STACEY 123 Hickory Ln SW Warren OH 44481	:	AND INJUNCTIVE RELIEF AND FOR DAMAGES
Plaintiffs	:	Jury Demand Endorsed Hereon
vs	:	
CITY OF HERMITAGE 800 N Hermitage Rd Hermitage PA 16148	:	
GARY P HINKSON, Individually and in Official Capacity as City Manager of Hermitage, 800 N Hermitage Rd Hermitage PA 16148	:	
EDWARD STANTON, Individually and in Official Capacity as Police Chief of Hermitage, 800 N Hermitage Rd Hermitage PA 16148	:	
RUSSELL V PENN JR, Individually and in Official Capacity as City Inspector of Hermitage, 800 N Hermitage Rd Hermitage PA 16148	:	

JEFFERY OSBORNE, Individually :
and in Official Capacity as :
Asst City Inspector of Hermitage :
800 N Hermitage Rd :
Hermitage PA 16148 :
:
ROBERT S GOELTZ, Individually :
and in Official Capacity as :
Fire Marshall of Hermitage, :
800 N Hermitage Rd :
Hermitage PA 16148 :
:
JAMES "PAT" WHITE, Individually: :
and in Official Capacity as :
Commissioner of Hermitage, :
490 Ashland Dr :
Hermitage, PA 16148 :
:
THOMAS W KUSTER, and :
H WILLIAM WHITE III, and :
EKKER KUSTER MCCONNELL :
& EPSTEIN :
Attorneys at Law, Individually :
and in Official Capacity as :
Solicitors for Hermitage, :
One E State St, Suite 400 :
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Sharon PA 16146 :
:
CHRISTOPHER FERRY, and :
WATTS & PEPICELLI :
Attorneys at Law :
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Meadville PA 16335 :
:
JERRY G CARTWRIGHT JR :
Attorney at Law :
Temple Bldg, Suite 214 :
125 E North St :
New Castle PA 16101 :

PENN POWER CO, and :
OHIO EDISON CO, thru :
its Employees and Agents, :
1 East Washington St :
New Castle PA 16101 :
:
RICHARD SEREDAY, and :
ROSEANN SEREDAY, :
doing business as :
SEREDAY EXCAVATING, :
694 Yankee Run Rd :
Masury, OH 44438 :
:
VIROSTICK TRANSFER CO, thru :
its Owners, Employees and Agents, :
159 Pitt St :
Sharon PA 16146 :
:
WODZIANSKI & SMITH INC, thru :
its Owners, Employees and Agents, :
Address unknown :
:
RICHARD G ENGLISH & ASSOC, :
thru Its Owners, Employees :
and Agents, :
191 Connelly Blvd :
Sharon PA 16146 :

*2

THOMAS R DOBSON, :
Individually and in Official :
Capacity as Common Pleas :
Judge of Mercer County, :
Mercer County Courthouse :
North Diamond St :
Mercer PA 16137 :

ELIZABETH F FAIR, :
Individually and in Official :
Capacity as Prothonotary :
of Mercer County, thru :
Her Office, Employees and Agents, :
Mercer County Courthouse :
North Diamond St :
Mercer PA 16137 :
:
Defendants :

JURISDICTION

1. This Court has jurisdiction under 28 USC §§ 1331 and 1343, and 1332, if necessary, and 18 USC §§ 1964 and 1965, if conspiracy is deemed appropriate. This action flows primarily from 42 USC § 1983 and seeks to redress deprivation under color of state law of rights secured to plaintiffs by the Fourth, Fifth, Ninth and Fourteenth Amendments to the United States Constitution. This Court has supplemental jurisdiction over state claims pursuant to 28 USC § 1367. Jurisdiction is further conferred by 28 USC §§ 2201 and 2202 for declaratory and injunctive relief.

PARTIES

2. Plaintiff Helen Stacey is a citizen of the United States and owner of the property at 1560 East State Street in the City of Hermitage, Mercer County, Pennsylvania. She resided there until July 1, 1997, when she and her husband, Andrew, now deceased, were *3 ordered to vacate the family home by defendant City of Hermitage after a heavy rain flooded the cellar. She now lives at 2220 High St, Apt 611, Cuyahoga Falls, Summit County, Ohio.

3. Plaintiff Raymond Stacey is a citizen of the United States, the son of Helen Stacey and her attorney-in-fact. For most of his live he lived at the family home, but now resides at 123 Hickory Lane SW, Warren, Trumbull County, Ohio.

4. Defendant City of Hermitage (City) is a municipal government organized and operating under the laws of Pennsylvania and is located in Mercer County, Pennsylvania.

5. Defendant Gary P Hinkson is the City Manager of Hermitage responsible for the day-to-day operation, decisions and business of the City. At the time of the occurrences alleged herein, it was his duty to supervise city activities so as not to injure plaintiffs or deprive them of their civil rights.

6. Defendant Edward Stanton is the chief police officer of Hermitage responsible for the police department and as such it was his duty to supervise police activities so as not to cause injuries to plaintiffs or deprive them of their civil rights at the time of the occurrences alleged herein.

7. Defendant Russell V Penn Jr is City Inspector and Health Officer of Hermitage responsible for enforcing the provisions of the City Property Maintenance Code and as such conducts housing inspections and issues notices and orders for violations of the Code. At the time of the occurrences alleged herein, it was his duty not to injure plaintiffs or deprive them of their civil rights.

*4

8. Defendant Jeffery Osborne is a city inspector who assists defendant Penn in housing inspections within the City, and as such it was his duty not to injure plaintiffs or deprive them of their civil rights at the time of the occurrences alleged herein.

9. Defendant Robert S Goeltz is Fire Marshall of Hermitage and responsible for the operation of the City fire department. At the time of the occurrences alleged herein, it was his duty to supervise fire department activities so as not to cause injuries to plaintiffs or deprive them of their civil rights.

10. Defendant James "Pat" White is an elected commissioner of the City of Hermitage responsible for legislative functions and activities, and as such it was his duty not to injure plaintiffs or deprive them of their civil rights at the time of the occurrences alleged herein.

11. Defendants Thomas W Kuster and H William White III are attorneys with the defendant firm of Ekker, Kuster, McConnell & Epstein of Sharon, Pennsylvania. They are solicitors for the City of Hermitage and responsible f or legal advice and services. As such, it was their duty not to injure plaintiffs or deprive them of their civil rights at the time of the occurrences alleged herein.

12. Defendant Christopher Ferry is an attorney with defendant firm Watts & Pepicelli of Meadville, Pennsylvania. They were retained by plaintiff Helen Stacey to handle problems with Hermitage over building code violations with the family home and to help sell the property. As such, the attorneys had a duty not to injure plaintiffs or deprive them of their civil rights at the *5 time of the occurrences alleged herein.

13. Defendant Jerry G Cartwright Jr is an attorney in private practice in New Castle, Pennsylvania. When defendants Ferry and his law firm failed to act in filing a trespass action and getting an injunction against Hermitage, plaintiffs retained Attorney Cartwright to get the injunction and petition the court to order the City to hold a hearing before the City appeals board. As such, Attorney Cartwright had a duty not to injure plaintiffs or deprive them of their civil rights.

14. Defendants Penn Power Company and its parent organization Ohio Edison are electric power utility companies. Penn Power maintains offices in New Castle, Pennsylvania, and is regulated by the Pennsylvania Public Utility Commission. As such, Penn Power had a duty to supervise its employees and agents so as not to cause injuries to plaintiffs or deprive plaintiffs of their civil rights at the time of the occurrences alleged herein.

15. Defendants Richard Sereday and Roseann Sereday, doing business as Sereday Excavating, ran a heavy equipment demolition operation out of their home in Masury, Ohio. Defendant City of Hermitage awarded them the contract to demolish plaintiffs family home, and as such the Seredays had a duty not to injure plaintiffs or deprive them of their civil rights at the time of the occurrences alleged herein.

16. Defendant Virostick Transfer Company is a moving company with offices in Sharon, Pennsylvania, and is regulated by the *6 Pennsylvania Public Utility Commission. As such, its owners had a duty to supervise its employees and agents so as not to cause injuries to plaintiffs or deprive them of their civil rights at the time of the occurrences alleged herein.

17. Defendant Wodzianski & Smith of an unknown address and defendant Richard G English & Associates of Sharon, Pennsylvania, were hired in October/November 2000 by the City of Hermitage to inspect and appraise plaintiffs family home. As such, these defendants had a duty to supervise its employees and agents so as not to cause injuries to plaintiffs or deprive them of their civil rights at the time of the occurrences alleged herein.

18. Defendant Thomas R Dobson is a judge of the Court of Common Pleas in Mercer County, Pennsylvania, and as

such it was his duty not to injure plaintiffs or deprive them of their civil rights at the time of the occurrences alleged herein.

19. Defendant Elizabeth F Fair is the prothonotary of the Court of Common Pleas in Mercer County, Pennsylvania, and as such it was her duty to supervise the activities of her office, employees and agents so as not to cause injuries to plaintiffs or deprive them of their civil rights at the time of the occurrences alleged herein.

FACTS

20. Helen Stacey was the owner of a large brick building, (the family home), located at 1560 East State Street, Hermitage, Pennsylvania, where she had lived with her family for over 50 years, accumulating a great deal of personal property there, including private papers, tax returns, receipts and family photos.

*7

21. Helen's son Raymond had lived in the family home much of his life and also accumulated personal property there, including private papers, receipts, collectibles and original art work.

22. The City demolished the structure located at 1560 East State Street and in doing so knowingly destroyed evidence so it was not available for any official proceeding.

23. The structure was not a hazard to life, health or safety, and not about to collapse, having withstood the heavy snows of three winters and one earthquake.

24. There were alternatives to demolition, including buyers willing to make repairs acceptable to the City.

25. The City demolition occurred without providing plaintiffs with due process.

26. The City letter of 6/1/2000 sent to plaintiff contains no warning that the City will demolish the home if repairs are not made and does not advise of the right to appeal.

27. Plaintiffs placed three truckloads of dirt into the cellar of the structure to support the foundation, but the City ignored plaintiffs request for an extension of time to continue the repairs.

28. Plaintiffs requested a hearing at the City board of appeals from the demolition notice of 8/1/2000 to consider repairs in progress, the sale of the property to a buyer willing to make the repairs, and time to remove vast amounts of personal property from the family home.

29. Defendant Attorney White summarily refused to convene the City board, denying plaintiffs the opportunity to be heard on *8 the demolition itself and the procedure for inventory of items to be taken or salvaged, as required by City ordinance.

30. Plaintiffs asked defendants Ferry and his firm to file an action in trespass and get an injunction to prevent the demolition. When they failed to act, plaintiffs in a panic rush retained defendant Attorney Cartwright.

31. On August 28 and August 31, 2000, defendants Police Chief Stanton, City Attorney White, Commissioner White, Inspectors Penn and Osborne, workmen from Penn Power and from Virostick Transfer Co, in concert with others, broke in, searched for evidence and seized personal property without consent, warrant or court order. At one point, Police Chief Stanton reached through the open front door, grabbed and dragged plaintiff Raymond Stacey outside, threatening him with arrest for defiant trespass if he again interfered.

32. City Defendants were continuing a pattern of threat and violence going back two years when they boarded up the home to keep the family and its contractor out, and took the family pickup truck still in running order to a secret place, while ordering the buyer of the truck off the property with threats of arrest.

33. Plaintiffs [Helen Stacey was] issued a temporary injunction preventing demolition at the cost of a $50,000 bond in favor of the City.

34. The temporary injunction was vacated a few days later by defendant Judge Dobson after a hearing where plaintiffs [Helen Stacey] did not have the opportunity to present testimony of contractors and engineers, together with their reports, because plaintiffs Attorney Cartwright failed to ask for and get a continuance.

*9

35. Plaintiff Helen Stacey, through Attorney Cartwright, filed an immediate notice of appeal which by fraud or bad faith in the Mercer County court system on the part of defendants Judge Dobson and Prothonotary Fair, was not docketed or processed per the Pennsylvania Rules of Appellate Procedure, and Plaintiff's motion for appellate stay was rejected despite the fact her $50,000 trial bond was still active in favor of the City.

36. In October or November 2000, upon information and belief, defendants Wodzianski & Smith Inc and Richard G English & Associates, through its owners, employees and agents, together with City defendants and unknown members of the City Fire Department entered and searched the Stacey home without consent, warrant or court order.

37. On November 6, 2000, the City seized the property with force by entering the family home without plaintiffs'

consent, using heavy equipment to demolish the structure and removing material from the premises.

38. While plaintiff's [Helen Stacey's] case was still pending in the state court system, the City in demolishing the family home destroyed the structure and its contents as evidence so it would not be available for further proceedings, such destruction being in violation of the Pennsylvania Crimes Code 4910.

39. Defendant Cartwright as plaintiff's attorney failed to attend the final hearing on November 6, 2000. He failed to perfect plaintiff's notice of appeal of 9/7/2000 and failed to secure an appellate stay to protect plaintiff's home.

***10**

40. Defendant Judge Dobson was not impartial and showed bias against plaintiffs. He threatened [federal] plaintiff Raymond Stacey with jail for zealously pursuing the truth at [the state] trial. The judge prevented the processing of plaintiff's [Helen Stacey's] notice of appeal of 9/7/2000 when the temporary injunction was vacated by the decree nisi which changed the status quo between the parties and is appealable as of right under Rule 311(a)(4)(ii) of the Pennsylvania Rules of Appellate Procedure. The judge had discussions about the case with the City's attorney outside the presence of plaintiff or plaintiff's attorney.

41. On November 6, 2000, when the final decree was entered on the docket, defendants Judge Dobson and Protonotary Fair made no effort to have plaintiff's [Helen Stacey's] notice of appeal processed as required by Rule 905 of the Rules of Appellate Procedure:

> Upon receipt of the notice of appeal the clerk shall immediately stamp it with the date...which date shall be shown on the docket...A notice of appeal filed...before the entry of an appealable order shall be

> treated as filed after such entry and on the day thereof.
>
> • • •
>
> The clerk shall immediately transmit to...the appellate court...a copy of the notice of appeal showing the date of receipt

42. The City seized the property with force by entering the family home and demolishing the structure and all its contents without first obtaining a warrant. Among the items destroyed were private papers, tax returns, books, original artwork, collectibles and family photos.

43. The City's demolition of the real and personal property denied plaintiffs the value of the property and deprived them of their civil rights.

*11

44. The City has filed a written lien on the property at 1560 East State Street for more than the amount of the demolition cost.

45. The City filed the lien for more than the cost of demolition without providing plaintiffs the opportunity for a due process hearing on whether the lien should be assessed and whether the amount of the lien was proper.

46. The City's imposition of the lien for demolition costs on the property clouds the title to the property.

47. The City is a corrupt organization and in doing the acts and things complained of the defendants were conspirators engaged in a scheme and conspiracy designed and intended to, and in fact did deny and deprive plaintiffs of Constitutional rights.

[No para. 48]

49. Specifically, defendants conspired to use the Hermitage Property Maintenance Code and the authority granted housing inspectors to remove the zoning embarrassment of plaintiffs family home. The structure had no front or side yard setbacks, jutted out onto the main commercial highway and aesthetically discouraged development, which was evident by the City's retaliatory denial to plaintiffs of a building permit to rebuild the nonconforming structure.

50. Defendant City of Hermitage is a corrupt organization and with other defendants created a conspiracy that should be investigated under the Pennsylvania Crimes Code 18 Pa.CS § 911 and the federal RICO Act 18 USC § 1961 et seq. In furtherance of the conspiracy, defendants have carried on interstate activity by *12 using the United States mails and telephone service, and plaintiffs have been damaged thereby.

51. Defendants acted intentionally, maliciously, recklessly and with a callous indifference to the rights of each of the plaintiffs.

CLAIMS FOR RELIEF

52. By demolishing plaintiffs home without adequate prior notice and by failing to provide plaintiffs with an opportunity for a meaningful hearing to dispute the alleged grounds for the emergency demolition, the defendants, acting under color of state law, have deprived plaintiffs of their property without due process of law in violation of the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution and 42 [U.S.C.] § 1983.

53. By entering with force and searching plaintiffs home without warrants and without consent, defendants, acting under color of state law, have violated plaintiffs right to be free from unreasonable searches under the Fourth Amendment to the United States Constitution and 42 [U.S.C.] § 1983.

54. By entering with force and searching plaintiffs home without warrants and without consent, and forcibly seizing plaintiffs home without adequate due process of law, defendants acting under color of state law, have violated plaintiffs right to privacy under the Fourth, Fifth and Ninth Amendments to the United States Constitution and 42 [U.S.C.] § 1983.

*13

55. Defendants actions, performed under color of state law, including, but not limited to, entering with force, searching and seizing plaintiffs home, and the breakdown of the Mercer County court system, under false pretenses and without warrants or consent when no emergency existed, were arbitrary and unreason-able, without substantial relation to public health, safety or public welfare, and as such violated plaintiffs right to substantive due process under the Fifth and Fourteenth Amendments to the United States Constitution and 42 [U.S.C.] § 1983.

56. In doing the acts and things complained of above, the defendants were conspirators engaged in a scheme and conspiracy designed, intended to, and which in fact did, deny and deprive plaintiffs of rights guaranteed under the Fourth, Fifth, Ninth and Fourteenth Amendments to the United States Constitution, and 18 USC §§ 1961 et seq and the Pennsylvania Crimes Code 18 Pa.CS Sec. 911.

57. Specifically, defendants conspired to use the Hermitage Property Maintenance Code and the authority granted housing inspectors to remove the zoning embarrassment of plaintiffs family home. The structure had no front or side yard setbacks, jutted out onto the main commercial highway and aesthetically discouraged development, which was evident by the City's retaliatory denial to plaintiffs of a building permit to rebuild, the nonconforming structure.

58. The City of Hermitage's unilateral determination of the demolition charges and imposition of a lien against plaintiff Helen Stacey's property for the collection of the charges injured *14 plaintiff by impairing title to the property. The City's failure to provide plaintiff with a due process hearing prior to the assessment of the charges and the imposition of the lien on her real property to secure the payment of those charges violated the due process requirement of the Fifth and Fourteenth Amendment to the United States Constitution and 42 [U.S.C.] § 1983.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray this Court grant the following relief:

Enter judgment declaring that plaintiff Helen Stacey was entitled to an appeal as of right from the decree nisi issued in her state court case pursuant to Rule 311(a)(4)(ii) of the Pennsylvania Rules of Appellate Procedure.

Enter an injunction prohibiting the foreclosure of the City's lien on plaintiff's property, ordering the City to remove the lien for demolition charges from all public records.

Enter judgment for the plaintiffs against defendants for compensatory and punitive damages in the amount of $2,000,000.00

Enter an order that defendants pay court costs and attorneys' fees in this action pursuant to 42 § 1988.

Grant such other relief as the Court deems just and proper.

Respectfully submitted,

s/ Helen Stacey
1-21-2003

Date: November 6, 2002

Helen Stacey
BY s/ Raymond Stacey

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